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S E C R E T SECTION 01 OF 03 BRASILIA 001910

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C O R R E C T E D C O P Y - I N F O A D D R E S S E E S A D D E D

E.O. 12958: DECL: 05/25/2016

TAGS: PREL PTER SNAR BR

SUBJECT: BRAZIL: GOB OFFICIALS COMMENT ON REFUGEE CASE OF SUSPECTED FARC TERRORIST

REF: A. STATE 139878

¶B. BRASILIA 1511

¶C. BRASILIA 1613

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Classified By: POLITICAL COUNSELOR DENNIS HEARNE. REASONS: 1.4 (B)(D).

¶1. (S/NF) Summary. Charge and PolCouns delivered ref A demarche to senior GOB officials, stressing USG concerns about the 14 July 2006 decision by Brazil's national refugee commission (CONARE) to grant refugee status to suspected FARC terrorist Francisco Antonio Cadena Collazos (refs B and D), despite an outstanding extradition request for Cadena from Colombia's government (GOC) and Brazil's obligation to deny safe haven to terrorist under United Nations Security Council Resolution 1373. Under Secretary for Political Affairs Antonio de Aguiar Patriota and other senior Ministry of External Relations (MRE) officials said the decision by CONARE had been complex and laborious, with "humanitarian" factors weighing heavily. They indicated CONARE, with strong encouragement from the UNHCR representative, had not regarded Cadena as a "terrorist" but as a refugee from an "internal armed conflict," which they claim is the approach that consistently has been taken by CONARE to more than 300 other Colombians settled in Brazil as refugees. Luiz Paulo Barreto, CONARE's president and the second-ranking official in Brazil's Justice Ministry, told PolCouns that the committee had deliberated for nearly a year (vice the 30 days typical in other refugee cases), had considered the GOC legal case against Cadena as weak, saw the timing of the 2005 extradition request for Cadena (who has lived in Brazil since 1992) as driven by election politics in Colombia, and had researched Cadena's history in vain for any indication that he was a FARC military commander instead of the ideological commissar, priest and political representative he claims to be. Despite credible reporting to the contrary, Barreto denied there had been political pressure on CONARE to grant refugee protection to Cadena, and said he would be prepared to revoke Cadena's refugee status "in a minute" if (1) Cadena is caught in a lie in his petition, (2) does not fulfill the conditions of his status, (3) the GOC appeals to CONARE with compelling additional information. Barreto also said he

would be willing to personally receive and assume responsibility for protecting any USG intelligence information regarding Cadena that has a bearing on his refugee claim and his history with the FARC in Colombia. End summary.

Foreign Ministry Demarches

¶2. (SBU) DCM (serving as Charge at the time) made ref A demarche to Ambassador Antonio de Aguiar Patriota, MRE Under Secretary for Political Affairs, on 4 September. DCM

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stressed that the CONARE decision appeared at odds with Brazilian commitments under UNSCR 1371. Patriota did not appear to be very familiar with the details of the Cadena decision, but indicated he had discussed it with Foreign Minister Amorim and others. He said that, according to the MRE representative in CONARE, the UNHCR representative in CONARE had pressed hard to grant refugee status, in what had been an extensive and "impassioned" process in the commission. He noted that some of the key considerations were "humanitarian" -- i.e., that Cadena has lived in Brazil peacefully for over 15 years and has a Brazilian wife and child.

¶3. (SBU) PolCouns followed up with a second demarche on 5 September to the MRE's Assistant Secretary for International Organizations, Ambassador Maria Luiza Veotti. Veotti was joined by Marcus Fagundes, Chief of the OAS Division and an alternate representative for the ministry on the CONARE board. PolCouns emphasized that the USG had no intent to interfere in Brazilian legal processes, but noted USG dismay with the Cadena decision and questioned how the GOB could square this decision in view of its obligations under UNSCR ¶1371.

¶4. (SBU) Veotti emphasized that CONARE classified Cadena as a refugee, and is not a beneficiary of political asylum. Refugee status is granted solely and independently by CONARE,

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which includes GOB representatives from the justice and foreign ministries, as well as UNHCR and civil society and faith-based NGOs. Political asylum is a national process, in which the GOB would be directly involved, but Cadena's request was for refugee status, and was sent to CONARE. As a refugee in Brazil, Veotti affirmed that Cadena cannot be extradited, and the judiciary's role at this stage is essentially passive, she said. If refugee status is revoked for any reason by CONARE, extradition can again be contemplated by the courts. Veotti reiterated Patriota's description of the CONARE deliberation as a laborious one in which humanitarian issues emerged as paramount. She said it was important to note that CONARE "never defined or characterized Cadena as a terrorist," but rather as a Colombian "involved or affected by the internal armed conflict in his country, and who feared death, harm or persecution, in accordance with the 1951 UN definition on which CONARE bases its proceedings." This is the same context in which CONARE has approached other Colombian refugee seekers in Brazil, she added. PolCouns noted that he would be seeing the president of the CONARE board that adjudicated Cadena's appeal, and Veotti urged poloff to seek more detailed clarifications in that meeting.

CONARE President

¶5. (C) Justice Ministry Executive Secretary (Deputy Minister-equivalent) Luiz Paulo Barreto met with PolCouns on 6 September to receive ref a demarche and discuss the Cadena issue. Barreto, in addition to being the senior career legal

officer at the ministry, is the President of CONARE and chairs its deliberations. Barreto is a long-time and cooperative contact of the Embassy on a range of law enforcement and counter-terrorism issues. Requesting confidentiality on our part, and breaking the official

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silence that normally surrounds CONARE decisions on refugees, he outlined the factors weighing in CONARE's handling of Cadena's refugee appeal:

-- Barreto said the committee regarded the GOC allegation and extradition request against Cadena as legally specious. Noting that the crime alleged had been committed in 1991, and that the extradition request to Brazil had been lodged only in 2005, Barreto claimed the case appeared to hinge entirely on the testimony of one recently-revealed witness, who Brazilian sources indicate has had his sentence reduced in Colombia and received financial compensation in exchange for accusing Cadena. CONARE interviewed Cadena extensively, and he denied the murder allegations and claimed that he was in Venezuela on the date of the 1991 attack on the Colombian National Police base in which the murders occurred. Barreto acknowledged that Cadena had no one to corroborate his denials.

-- Barreto said CONARE viewed the GOC's interest and timing in pursuing Cadena's extradition as being driven by domestic political factors in Colombia. Barreto said that Cadena had resided in Brazil since 1992, but that during that time he had returned on occasion to Colombia, in some cases with the consent of the GOC. Barreto said the GOB had official information, supported by Cadena's own testimony, that Cadena has occasionally served in a negotiator role between the GOC and FARC, most recently in 2000. CONARE questioned why previous GOC administrations had seemed to regard Cadena as innocuous or even tacitly supported his role as a dialogue facilitator, allowing him to enter and leave Colombian territory, but the Uribe government -- in an election year -- had suddenly sought extradition. Barreto claimed that the GOC and Colombian Embassy's interventions with CONARE regarding the case had virtually ceased when Uribe was re-elected. (Comment: That is a specious argument given the fact that refugee status was granted to Cadena less than 2 months after Uribe's re-election. End comment.)

-- Barreto said the GOB, including its intelligence service and military, had assisted CONARE over several months in "exhaustively researching" Cadena's history in Colombia with the FARC, and had found no information that supported GOC allegations that Cadena was a FARC field commander capable of

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leading an attack on a military base. Cadena claims to have been a political commissar, teacher, and priest for FARC in Colombia, and later an informal representative for the group in Brazil, but not a combatant, much less a commander. Barreto claimed the information developed by CONARE and the GOB could not disprove that position (he noted the only picture the GOB had obtained of Cadena in FARC uniform is 30 years old and shows him holding a bible in one hand and a gun in the other).

-- Barreto noted that there are 350 Colombians living in refugee status in Brazil, re-settled after successfully convincing CONARE that they faced threats related to the country's internal conflict if they returned. Some have been resettled at GOC requests, others have applied for refugee status on their own, and they come from the ranks of the Colombian security forces, paramilitaries and guerrillas, as well as ordinary citizens. These include, Barreto said by way of a contrasting example to Cadena, two former Colombian army soldiers who killed FARC commanders during a fire fight, but who could not be guaranteed safety from reprisals by the GOC once they demobilized. Noting that CONARE took nine months to consider the Cadena case - versus the one month

timeframe for most refugee decisions - Barreto said the committee had painstakingly weighed all the information. But in the end, he claimed Cadena had made a convincing case to CONARE that he faced a well-founded fear of death at the hands of paramilitary elements should he return to Colombia, which overshadowed the GOC allegation and extradition request, which appeared questionable on several points to CONARE, as noted above.

¶6. (C) In response to a direct question from PolCouns, Barreto indicated that CONARE had not suffered political pressure from any source in evaluating the case. He added that Cadena's status in Brazil is contingent on his fulfilling his obligations as a refugee (i.e., no further political activism on Brazilian soil, rupture of his ties to FARC), and that if CONARE were to be presented with compelling evidence that Cadena had lied in any aspect of his petition, Barreto would recommend to the committee "in a minute" that his status be revoked and the legal path opened for extradition. Barreto indicated CONARE is open to further appeals and new information from the GOC about the case. He also invited the USG to provide any relevant information it might have regarding Cadena directly to Barreto, undertaking to personally assume responsibility for appropriate security and handling of the information should it involve intelligence sources and methods.

¶7. (S/NF) Comment. The GOB officials demarched, especially Barreto, provided a cogent explanation for the Cadena decision, although from our perspective not a particularly credible one. They evidenced understanding for the points in our demarche, were frank and not defensive in their reactions, and had ready answers that seemed to reflect an exhaustive deliberative process conducted within the expected UNHCR parameters. None of that changes our view, per previous sensitive reporting, that the CONARE decision was driven largely by heavy pressure from the very top of the Brazilian government, and that the GOB members of CONARE ultimately yielded to that pressure (we think the UN and NGO members were likely disposed in that direction in any event).

That said, if the GOC is prepared to fight this, it needs to develop the strongest, most detailed possible legal case against Cadena on the specific charges relating to his alleged command of the attack on the CNP base in 1991 and the two deaths that resulted. Coupling that with any further information or intelligence that the GOC or USG assets can develop on Cadena's history in FARC military actions would also be useful.

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